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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,305	07/09/2001	Wayne Anderson	P-14 (n) CIP / CONT	8578

7590
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08/06/2003

EXAMINER

MEISLIN, DEBRA S

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 08/06/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No.	Applicant(s)	
	09/901,305	ANDERSON ET AL.	
	Examiner	Art Unit	
	Debra S. Meislin	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003 and 28 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 92,95 and 97 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 92,95 and 97 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 92, 95, and 97 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 92, line 12, "having a closed-end and an open end" is out of context due to the insertion of the amended subject matter. It is not clear as to what element(s) has a closed-end and an open end. In line 15, "adjacent closed end" should be --adjacent said closed end--.

In claim 97, lines 2-3, "said double-ended tool" lacks antecedent basis.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 92 and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al (6,009,582) in view of Beran (2,980,996).

Figure 17 of Harrison et al discloses all of the claimed subject matter except for having a closed end of the sleeve non-removably connected to the means for pivotally connecting the sleeve and being pivotable to an inoperative position between the handle sides, and bits and sleeves stored in the handle. Note that the sleeve of Harrison et al is cylindrical and has a wing member "118" extending from the outside of the tubular body as broadly claimed by applicant. Beran discloses a closed end non-removably connected to the means for pivotally connecting the sleeve and being pivotable to an inoperative position between the handle sides. It would have been

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obvious to one having ordinary skill in the art to form the sleeve of Harrison et al with a closed end non-removably connected to the means for pivotally connecting the sleeve and being pivotable to an inoperative position between the handle sides to store the sleeve as taught by Beran.

Beran further discloses *tool elements* bits and sleeves stored in the handle. It would have been obvious to one having ordinary skill in the art to form the device of Harrison et al such that the bits and sleeves are stored in the handle to allow for the storage of *tool elements* bits within the handle as taught by Beran.

Beran additionally discloses a tubular body "formed with a wing member extending away from the outside" of the tubular body as broadly claimed by applicant.

Note figure 6.

4. Claim 97 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al (6,009,582) in view of Beran (2,980,996) as applied above, in further view of Park (5,280,659).

Park discloses a double-ended tool bit. It would have been obvious to one having ordinary skill in the art to form the bit of Harrison et al as double-ended to allow for added versatility as taught by Park.

5. Applicant's arguments filed June 26, 2003 have been fully considered but they are not persuasive.

Beran was applied to the rejection of the claims to teach the concept of having a closed end non-removably connected to the means for pivotally connecting the sleeve, and the sleeve and tool bit being pivotable to an inoperative position between the

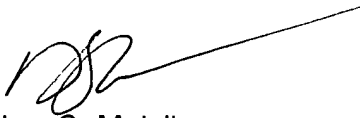
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handle sides for the storage thereof. Beran was not applied to teach what was disclosed by Harrison et al.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6. The status of the parent applications must be updated on page 1 of the specification. *Meislin's pet #'s*

7. Any inquiry concerning this communication should be directed to Debra S. Meislin at telephone number 703-308-3671.


Debra S. Meislin
Primary Examiner
Art Unit 3723

August 5, 2003